

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION**

CHARLES HALLINAN, JOSEAN KINARD,
ARNOLD J. HILL, BENJAMIN D. MCRAE,
JOHN DAILEY, LEE M. AYERS, GEORGE
B. RIDDICK, JORGE LUIS MALDONADO,
ANTWAN HARRIS, ANTHONY BUTLER,
and TROY A. TITUS, on behalf of themselves
and similarly situated individuals,

Petitioners/Plaintiffs,

v.

THOMAS SCARANTINO, Complex Warden,
Federal Correctional Complex Butner;
MICHAEL CARVAJAL, Federal Bureau of
Prisons Director; and JEFFERY ALLEN,
Federal Bureau of Prisons Medical Director, in
their official capacities,

Respondents/Defendants.

Case No. 5:20-HC-02088-FL

**PETITIONERS/PLAINTIFFS' MOTION FOR
TEMPORARY RESTRAINING ORDER,
PRELIMINARY INJUNCTION, AND WRIT
OF HABEAS CORPUS**

**Fed. R. Civ. P. 65
28 U.S.C. § 2241**

**IMMEDIATE RELIEF SOUGHT
HEARING REQUESTED**

Plaintiffs/Petitioners ("Petitioners") respectfully move the Court for entry of a temporary restraining order ("TRO") and preliminary injunction under Federal Rule of Civil Procedure 65 and a writ of habeas corpus under 28 U.S.C. § 2241. Without the requested relief, Petitioners, who are all inmates at the Federal Correctional Complex Butner ("Butner") in North Carolina, face an imminent and grave risk of contracting the virus that causes COVID-19 because of the unconstitutional confinement and conditions at Butner. In recent weeks, COVID-19 has already taken the lives of ten men incarcerated at Butner, and hundreds of others at Butner (both incarcerated men and staff) have contracted the virus.

Petitioners seek an immediate TRO, preliminary injunction, and writ of habeas corpus against Respondents Thomas Scarantino, Michael Carvajal, and Jeffery Allen:

(1) ordering Respondents to identify, within one day, all people incarcerated at Butner who fit within the Medically Vulnerable Subclass;

(2) appointing an expert to determine appropriate categories of release for each Subclass member within 48 hours of entrance of the order or injunction (the “Expert List”);

(3) requiring release—without quarantining at Butner—of all persons identified as appropriate for release within twenty-four (24) hours of creation of the Expert List; and

(4) ordering Respondents to prepare a COVID-19 mitigation plan to be submitted to the Court within 48 hours and overseen by a qualified public health expert pursuant to Fed. R. Evid. 706, which outlines:

i. Immediate testing for all people incarcerated at Butner known to have been in close proximity with anyone showing any symptoms or having tested positive for COVID-19;

ii. Immediate medically sound quarantine for all people incarcerated at Butner known to have been in close proximity to anyone showing symptoms or having tested positive for COVID-19;

iii. Immediate medically sound isolation for all people incarcerated at Butner showing any symptoms or who have tested positive for COVID-19, in compliance with CDC guidelines;

iv. Appropriate medical treatment for incarcerated people exhibiting symptoms of COVID-19, including the waiver of any sick call fees;

v. Additional specific efforts to ensure no spread of COVID-19 from outside the quarantine area to the quarantine area, including: (1) requiring staff who enter the quarantine area to wear masks; (2) ensuring proper access to products/materials for proper hygiene; (3) ensuring individuals in the quarantine area are able to comply with physical distancing guidelines; and (4) frequent disinfecting and cleaning.

Petitioners request that the Court waive security for the TRO and/or preliminary injunction under Federal Rule of Civil Procedure 65(c). *See Hawkins v. Cohen*, 327 F.R.D. 64, 88 (E.D.N.C. 2018), *modified on reconsideration*, 2018 WL 6445416 (E.D.N.C. Dec. 10, 2018) (waiving bond requirement where plaintiffs and class members were indigent public assistance recipients).

The bases for this Motion are set forth in the Memorandum of Law in Support of Petitioners/Plaintiffs' Motion for Temporary Restraining Order, Preliminary Injunction, and Writ of Habeas Corpus, filed contemporaneously with this Motion. Petitioners request immediate relief. If the Court is inclined to allow Respondents time to file a written response to this Motion, Petitioners request that the Court require such response be filed as quickly as possible, and in no event later than June 1, 2020.

Respectfully submitted this 28th day of May, 2020.

/s/ Jeffrey S. Wilkerson

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CERTIFICATE OF SERVICE

I, Jeffrey S. Wilkerson, hereby certify that a true copy of the of the foregoing was served on Respondents/Defendants' counsel of record with the Clerk of the Court via the CM/ECF Document Filing System.

This 28th day of May, 2020.

/s/ Jeffrey S. Wilkerson_____

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